



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:23.03.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)No.4282 of 2016

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Soundram

... Petitioner

Vs.

1.The Government of Tamilnadu
Rep by its Principal Secretary to Government
Municipal Administration and Water Supply Department
Secretariat St.George Fort, Chennai.

2.The Commissioner of Municipal Administration,
Ezhizhalagam, Chennai.

3.The Commissioner
Rajapalayam Municipality,
Rajapalayam, Virudhunagar District.

4.The Account General of Tamil Nadu,
The Office Accountant General,
Annasalai, Thenepet, Chennai.

5.The Commissioner,
Local Fund Audit,
Chennai.

... Respondents

(R5 is impleaded vide Court Order dated 02.01.2017
in W.M.P(MD)No.4105 of 2016)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to count half of the service rendered by the petitioner as Last Grade servant from 01.07.1991 to 20.07.2007 along with regular service rendered by him as Office Assistant from 20.07.2007 to 31/01/2013 as qualifying service for pensionary benefits and send the revised proposal to the 4th respondent and to grant pension with all consequential monetary benefits within the stipulated period.

For Petitioner	: Mr.A.Balakrishnan
For R1, R2&R5	: Mr.M.Muthugeethayan Special Government Pleader
For R3	: Mr.S.Angappan
For R4	: Mr.P.Gunasekaran

O R D E R

This Writ Petition is filed for a direction to the respondents to count half of the service rendered by the petitioner as Last



Grade servant from 01.07.1991 to 20.07.2007 along with regular service rendered by him as Office Assistant from 20.07.2007 to 31/01/2013 as qualifying service for pensionary benefits and send the revised proposal to the fourth respondent and to grant pension with all consequential monetary benefits.

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2.The case of the petitioner is that he was appointed as last Grade Servant on 01.07.1991 in the third respondent Municipality, on daily wage basis. After rendering 15 years of service, the petitioner's service was not regularised. Hence, the petitioner filed a writ petition before this Court in W.P(MD)No.9725 of 2006 seeking regularization of his service and the said writ petition was disposed of by this Court on 30.10.2006 directing the respondents to consider the claim of the petitioner. Pursuant to which, the third respondent regularised the petitioner's service and appointing him as Office Assistant. Subsequently, the petitioner was retired from service on 31.01.2013. After retirement, the petitioner was not given any retirement benefits. Further, the petitioner has averred that for availing pensionary benefits, to include the service rendered by the petitioner from 01.07.1991 to 20.07.2007, prior to his regularization has to be counted. Therefore, the petitioner has made a representation on 26.03.2015 to the respondents. So far no order has been passed. Hence, the present writ petition is filed.

3.The learned counsel appearing for the petitioner submitted that this Court may issue a direction to the respondents to consider the petitioner's representation dated 26.03.2015 within the reasonable time as fixed by this Court.

4.The learned Special Government Pleader appearing for the respondents 1, 2 and 5 submitted that the issue arises in this Writ Petition was already settled by the Hon'ble Full Bench of this Court in W.A.No.158 of 2016 etc., batch, dated 03.12.2019, wherein in paragraph No.45 of the said order reads as follows:

"45. In the light of the above, we answer the reference as follows:-

i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of W.A.No.158 of 2016 etc., batch proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003.

ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on



consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

- iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.
- v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

5. Admittedly, the case of the petitioner is that he was appointed as last Grade Servant on 01.07.1991 on daily wage basis and his services were regularized only on 20.07.2007. On a perusal of the above said decision made in W.A.No.158 of 2016 etc., batch, dated 03.12.2019, particularly, sub para (iv) of paragraph 45 makes it clear that the Government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

6. In view of the above said decision, the claim made by the writ petitioner in this Writ Petition cannot be considered. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(RTI Act)

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary to Government,
Government of Tamilnadu,
Municipal Administration and Water Supply Department
Secretariat St.George Fort,
Chennai.

2.The Commissioner of Municipal Administration,
Ezhizhalagam,
Chennai.

3.The Commissioner
Rajapalayam Municipality,
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The Office Accountant General,
Annasalai, Thenepet, Chennai.

5.The Commissioner,
Local Fund Audit,
Chennai.

+1 CC to M/s.SPL GP (SR-13297[F] dated 24/03/2021)

+1 CC to M/s.A.BALA KRISHNAN, Advocate (SR-13678[F] dated
25/03/2021)

W.P. (MD)No.4282 of 2016
23.03.2021

SRK(CO)
TR(21.04.2021) 4P 8C